

WINSTON & STRAWN LLP
David S. Bloch (SBN: 184530)
Jennifer A. Golinveaux (SBN: 203056)
101 California Street, Suite 3900
San Francisco, CA 94111
Telephone: 415-591-1000
Facsimile: 415-591-1400
Email: dbloch@winston.com
jgolinveaux@winston.com

Attorneys for Plaintiff
DIOPTICS MEDICAL PRODUCTS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DIOPTICS MEDICAL PRODUCTS, INC.,
a California corporation,

Plaintiff,

v.

BEI FRANCHISING, INC.,
a Michigan corporation,

Defendant.

Case No. C-06-02643 (MMC)

**NOTICE OF MOTION AND CONSENT
MOTION TO ENLARGE TIME AND
EXTEND DATES DUE TO SETTLEMENT
DISCUSSIONS; ACCOMPANYING
DECLARATION OF JENNIFER A.
GOLINVEAUX; ~~PROPOSED~~ ORDER**

Date: January 5, 2007
Time: 9:00 a.m.
Courtroom: 7, 19th Floor
Before: Honorable Maxine M. Chesney

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

NOTICE OF MOTION AND MOTION

TO DEFENDANT AND ITS ATTORNEY OF RECORD:

NOTICE IS HEREBY GIVEN that on January 5, 2007 at 9:00 a.m. or as soon thereafter as the matter may be heard in the above-entitled Court, located at 450 Golden Gate Avenue, San Francisco, California, 94102, plaintiff Dioptics Medical Products, Inc. (“Dioptics”) will, and hereby does, move this Court for an order to extend the date for defendant BEI Franchising, Inc. (“BEI”), to answer Dioptics’s complaint and the date for the parties to: (i) meet and confer regarding initial disclosures, early settlement, ADR process selection, and a discovery plan; (ii) file the ADR Certification Signed by Parties and Counsel; and (iii) file either a Stipulation to the ADR Process or a Notice of Need for ADR Phone Conference.

This consent motion is filed pursuant to Civil Local Rule 6-2 and is based upon this Notice of Motion and Motion, the Memorandum of Points and Authorities filed herewith, the accompanying declaration of Jennifer A. Golinveaux, the pleadings and papers on file herein, without oral argument, as defendant BEI consents to this motion.

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff Dioptics Medical Products, Inc. ("Dioptics") hereby submits this memorandum of points and authorities in support of its motion to change time pursuant to Civil Local Rule 6-2. As set forth in the accompanying declaration of Jennifer A. Golinveaux, Dioptics seeks the extensions of time detailed below because the parties to this action have reached a settlement in principle and need additional time to formalize the settlement and execute settlement documents. Defendant BEI consents to this motion. The parties have not filed a joint stipulation because BEI's counsel, Mr. Benjamin B. Reed, is not admitted to practice law in the State of California and is not admitted *pro hac vice* in this proceeding. The Court has previously granted seven motions to extend time in this case.

Dioptics respectfully requests that the Court grant its motion to extend the dates as follows:

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Last day for BEI to answer complaint;	December 1, 2006	January 2, 2006
Last day to:	December 1, 2006	January 2, 2006
- meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan; - file ADR Certification or Notice of Need for ADR Phone Conference.		

Accordingly, Dipotics respectfully requests that the Court grant its motion to change time, without the need for oral argument, as BEI consents to this motion.

Dated: December 1, 2006

WINSTON & STRAWN, LLP

By: /s/
 David S. Bloch
 Jennifer A. Golinveaux
 Attorneys for Plaintiff
 DIOPTICS MEDICAL PRODUCTS, INC.

[PROPOSED] ORDER

Good cause appearing therefore, it is hereby ORDERED that all dates and deadlines are extended as indicated below:

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Deadline</u>
Last day for BEI to answer complaint;	December 1, 2006	January 2, 2006
Last day to:	December 1, 2006	January 2, 2006
- meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan;		
- file ADR Certification or Notice of Need for ADR		
Phone Conference.		

IT IS SO ORDERED.

Dated: December 4, 2006

Hon. Maxine M. Chesney
UNITED STATES DISTRICT JUDGE

SF:148192.2